

Supporting Statement for the Recordkeeping and Disclosure Requirements in Connection with Regulation DD (Truth in Savings) (OMB No. 7100-0271)

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the recordkeeping and disclosure requirements of Regulation DD, which implements the Truth in Savings Act (TISA).¹ The Board is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies regulations such as Regulation DD as “required information collections.”² A notice of the renewal was published, on April 30, 2002, in the *Federal Register* for public comment.³

TISA and Regulation DD require depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. The act and regulation mandate the methods by which institutions determine the account balance on which interest is calculated. They also contain rules about advertising deposit accounts.

Information collection pursuant to Regulation DD is triggered by specific events and disclosures must be provided to consumers within the time periods established by the law and regulation. There are no reporting forms associated with Regulation DD. To ease the compliance cost (particularly for small entities), model clauses and sample forms are appended to the regulation; copies are attached to this document. Depository institutions are required to “retain evidence of compliance” for twenty-four months, but the regulation does not specify types of records that must be retained.

The Board's Regulation DD applies to all depository institutions except credit unions.⁴ The Federal Reserve accounts for the paperwork burden associated with Regulation DD only for state member banks. Other federal agencies account for the paperwork burden on other depository institutions. The total amount of annual burden is

¹ TISA was enacted in 1991 and is codified at 12 U.S.C. § 4301-13. Regulation DD is located at 12 C.F.R. Part 230.

² 44 U.S.C. § 3501 *et seq.*

³ The collection of information under Regulation DD is assigned OMB No. 7100-0271 for purposes of the PRA.

⁴ Credit unions are covered by a substantially similar rule issued by the National Credit Union Administration.

estimated to be 146,644 hours for 976 state member banks that are deemed “respondents” for purposes of the Paperwork Reduction Act.

Background and Justification

TISA was contained in the Federal Deposit Insurance Corporation Improvement Act of 1991. The purpose of TISA and its implementing regulation is to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms. TISA does not authorize exemptions for small institutions.

Accounts held by unincorporated nonbusiness associations of individuals were covered until October 1994, when the regulation was amended to implement provisions in the Riegle Community Development and Regulatory Improvement Act of 1994 that limited TISA’s coverage to accounts held by natural persons. The amendment reduced paperwork requirements and burden on depository institutions.

In September 1998, the Board published amendments to Regulation DD to implement statutory amendments that eliminated certain disclosure requirements.⁵ The amendments eliminated the requirement that institutions provide disclosures in advance of maturity for automatically renewable (rollover) time accounts with a term of thirty days or less. The amendments also expanded the exemption from certain advertising requirements to signs that are posted on the premises of a depository institution. The legislation also repealed TISA’s civil liability provisions, effective September 30, 2001.⁶

In September 1999, the Board adopted an interim final rule under Regulation DD that allowed depository institutions to deliver periodic statement disclosures electronically with the consumer’s consent.⁷ The Board also issued in September 1999, proposed rules to allow electronic delivery of all Regulation DD disclosures. The proposal established a standardized disclosure statement for obtaining consumers’ consent to receive electronic disclosures with certain exceptions. Guidance on the timing and delivery of electronic disclosures was also provided.

On June 30, 2000, the Electronic Signatures in Global and National Commerce Act (E-Sign Act) was enacted to encourage the continued expansion of electronic commerce.⁸ The E-Sign Act generally provides that electronic documents and signatures have the same validity as paper documents and written signatures. The E-Sign Act contains special rules for the use of electronic disclosures in consumer transactions; consumer disclosures may be provided in electronic form only if the consumer affirmatively consents after receiving certain information specified in the statute. The

⁵ 63 FR 52107 (September 29, 1998).

⁶ Economic Growth and Regulatory Paperwork Reduction Act of 1996, Pub. L. 104-208, 110 Stat. 3009.

⁷ 64 FR 49846 (September 14, 1999).

⁸ 15 U.S.C. § 7001 *et seq.*

consumer consent provisions in the E-Sign Act became effective October 1, 2000, and did not require the Board to adopt implementing regulations.

In March 2001, the Board issued an interim final rule setting forth the general rule that institutions may provide all disclosures required under Regulation DD electronically only if the institution complies with the requirements of the E-Sign Act.⁹ Accordingly, the 2001 interim final rule provided that the 1999 interim rule was withdrawn. The interim final rule also provides uniform standards for satisfying the timing and delivery requirements of Regulation DD when electronic disclosures are used, to ensure that consumers have adequate opportunity to access and retain the information.

The 2001 rule was adopted as an interim rule to allow the public to present additional comments. Compliance with the rule is optional. The Board is currently considering adjustments to the rule to provide depository institutions with additional flexibility. Depository institutions may continue to provide electronic disclosures under their existing policies and practices (in accordance with the E-Sign Act), or they may follow the interim rule until a permanent final rule is issued.

Description of Information Collection

TISA and Regulation DD cover accounts held by individuals primarily for personal, family, or household purposes. The recordkeeping and disclosure requirements associated with Regulation DD are described below.

Account Disclosures (Section 230.4)

Depository institutions are required to provide account disclosures containing rate and fee information to a consumer upon request. Account disclosures must also be provided prior to opening an account or before services are provided, whichever is earlier. The purpose of the disclosure requirement is to provide account holders and prospective account holders with the type and amount of any fees that may be imposed; the interest rate and the APY that will be paid on an account; and other key terms.

Subsequent Notices (Section 230.5)

Change in terms (230.5(a)). Depository institutions are required to provide thirty days' notice of any change that may reduce the APY or adversely affect consumers, such as a change in fees. Certain types of changes such as changes in the interest rate and APY for variable rate accounts are exempt from this requirement.

Prematurity (Renewal) notice (230.5(b), (c)). Depository institutions are required to provide prematurity notices for certain time accounts. The timing and content requirement of the notice varies depending on the term of a time deposit and whether it renews automatically.

⁹ 66 FR 17795 (April 4, 2001).

- For automatically renewable time accounts with a term less than or equal to one month, no advance notice is required.
- Advance notices for automatically renewable time accounts with a maturity longer than one month but less than or equal to one year may be sent either thirty days before maturity or, as an alternative, twenty calendar days before the end of a grace period, so long as the grace period is at least five days. The alternative timing rule was adopted to allow flexibility for institutions to maintain any existing practice to send notices ten to fifteen days prior to maturity. The notice may contain the disclosures required when the account is opened or, as an alternative, information on the interest rate and APY for the new account, the maturity date for the existing and new accounts, and any changes in terms.
- For automatically renewable time accounts with terms longer than one year, institutions must provide disclosures required at account-opening. The timing rules for accounts longer than one year are the same as for accounts with maturities longer than one month but less than or equal to one year.

For nonrenewable time accounts with a maturity of less than or equal to one year, no notice is required. If the maturity is longer than one year, the notice must provide information on the maturity date, and whether or not interest will be paid after maturity.

Periodic Statements (Section 230.6)

Neither the statute nor regulation mandates that depository institutions provide periodic statements. If an institution chooses to provide periodic statements, however, the statements must contain specific information: the total number of days in, or the beginning and ending dates of, the statement period; the dollar amount of interest earned and APY earned, and; fees imposed on the account, itemized by type and dollar amount.

Advertisements (Section 230.8)

The advertising rules apply to both depository institutions and deposit brokers. The purpose of the advertising rules is to provide potential shoppers with uniform and accurate information that they can use in deciding among various deposit accounts. With some variations depending on the media used, if an APY is stated in an advertisement, the depository institution also is required to provide certain information regarding the account terms, such as any minimum deposit required to open the account or minimum balance required to obtain the advertised rate.

Electronic communication (Section 230.10)

Under the Board's 2001 interim final rule, institutions may use electronic communication to provide disclosures required by Regulation DD to be in writing if consumer consent is obtained in accordance with the E-Sign Act. The 2001 interim rule also establishes uniform requirements for satisfying the timing and delivery requirements of the regulation when electronic disclosures are used. Compliance with the interim rule is optional. Depository institutions may continue to provide electronic disclosures under their existing policies and practices (consistent with the requirements of the E-Sign Act) or they may follow the interim rule until a permanent final rule is issued.

Time Schedule for Information Collection

Information collection pursuant to Regulation DD is triggered by specific events, and disclosures must be provided to consumers within the time periods established by the law and regulation. There is no reporting form associated with the requirements of Regulation DD; disclosures pertaining to a particular transaction or consumer account are not publicly available. Disclosures of an institution's account terms that appear in advertisements are available to the public.

Legal Status

The Board's Legal Division has determined that section 269 of the Truth in Savings Act (12 U.S.C. § 4308) authorizes the Board to issue regulations to carry out the provisions of the Act. The information collections are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises.

Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

Sensitive Questions

This information collection contains no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve System

Since the Federal Reserve does not collect any information, the cost to the Federal Reserve System is negligible.

Estimate of Respondent Burden

The general account disclosures (section 230.4) are in standardized, machine-generated form and do not substantively change from one individual account to another; thus, the cost to the public is small. Subsequent notices (section 230.5) and periodic

statements (section 230.6) are machine-generated reports of information that for the most part would be captured by the institution and disclosed to the consumer for business purposes; the marginal cost of complying with these regulations is considered to be small. The cost of complying with the advertising rules (section 230.8) is also considered to be small.

No paperwork burden is deemed to be associated with the requirement in Regulation DD that depository institutions “retain evidence of compliance” for a minimum of two years after the date disclosures are required to be made (section 230.9). The regulation does not specify the kind of records that must be retained for this purpose.

The estimated total annual burden for this information collection of 146,644 hours arises exclusively from the disclosures required under the regulation and is shown in the table below. This represents 2 percent of the Federal Reserve’s total paperwork burden.

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated response Time</i>	<i>Estimated annual burden hours</i>
Account disclosures (Upon request and new accounts)	976	500	1.5 minutes	12,200
Subsequent notices				
Change in terms	976	1,130	1 minute	18,381
Prematurity notices	976	1,015	1 minute	16,511
Disclosures on periodic statements	976	12	8 hours	93,696
Advertising	976	12	30 mins	5,856
<i>Total</i>				146,644

Based on an hourly cost of \$20, the annual cost to the public for this regulation is estimated to be \$2,932,880.

Attachment

Model Clauses and Sample Forms